

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

WAYNE G. LOVELY,	:	
	:	
Plaintiff,	:	
	:	Case No. 3:06cv169
vs.	:	
	:	JUDGE WALTER HERBERT RICE
UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

DECISION AND ENTRY OVERRULING, WITHOUT PREJUDICE,
DEFENDANT'S MOTION TO DISMISS (DOC. #7)

In response to Plaintiff's Complaint (Doc. #1), in which he set forth a claim under the Privacy Act, 5 U.S.C. § 552a, the Defendant filed a Motion to Dismiss (Doc. #7). Subsequently, the Plaintiff obtained leave of Court to file his Amended Complaint (Doc. #16), with which he added a claim under the Federal Tort Claims Act. In response to the Privacy Act claim set forth in that amended pleading, the Government has submitted its Second Motion to Dismiss (Doc. #19), which incorporates its briefing on its earlier motion.¹ Given that the Defendant's initial motion (Doc. #7) has been superseded by its second motion (Doc. #19), the Court overrules the Defendant's Motion to Dismiss (Doc. #7), without prejudice. In ruling

¹The Defendant has filed a separate motion, with which it seeks dismissal of the claim under the Federal Tort Claims Act. See Doc. #18.

upon Defendant's Second Motion to Dismiss (Doc. #19), the Court will consider the parties' briefing on the initial such motion.

March 29, 2007

/s/ Walter Herbert Rice

WALTER HERBERT RICE, JUDGE
UNITED STATES DISTRICT COURT

Copies to:

Counsel of Record.